

1A Dennis I Watson (Estate)**Case No. 0444557****Atty Buettner, Michael M (for Petitioner Mary S. Watson)****Atty Nahigian, Eliot (for Respondent Cynthia D. Watson)****Notice of Motion and Motion for Order to Correct Clerical Error in Judgment and Amend Judgment Nunc Pro Tunc and Alternatively to Modify Void Judgment**

DOD: 7/13/1991		<p>MARY S. WATSON is petitioner.</p> <p>Petitioner states she completed the probate of the decedent in pro per, enlisting the assistance of a paralegal to prepare the petition for final distribution.</p> <p>An error occurred in the language of the testamentary trust. The paralegal failed to include language in the testamentary trust that identified the decedent's children.</p> <p>Decedent died survived by his wife, Mary S. Watson, his child, Cynthia D. Knott, who is the issue of a prior marriage, and his two stepchildren, Martin R. Claborn and Kimberly Claborn Miller (who was referred to in the Will as Kimberly D. Garrett), who are the children of Mary S. Watson.</p> <p>Article Second of Decedent's Will identifies his children to include his natural born child and his stepchildren.</p> <p>Decedent's Will gives all of his personal property to his wife and Decedent's other assets consisting primarily of Decedent's ½ community property interest in certain farmland in trust for the benefit of his wife during her lifetime, and upon the death of Petitioner, to be divided into "as many equal shares as there are children of mine then living and children of mine then deceased leaving issue."</p> <p style="text-align: center;">Please see additional page</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 7/10/14.</p> <p>1. Order does not comply with Local Rule 7.6.1B – No riders or exhibits may be attached to any order, except as may be otherwise provided on Judicial Council forms. Need new order.</p>	
Cont. from 062314, 071014				
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<input type="checkbox"/>	Status Rpt			
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<input type="checkbox"/>	FTB Notice			
		<p>Reviewed by: KT</p> <p>Reviewed on: 8/7/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1A - Watson</p>		

1A

Given the language in Article Two of the Will which provides that stepchildren are to be treated as children, upon the death of Petitioner, the Will provides that the assets in the testamentary trust are to be distributed in equal shares to **Cynthia D. Knott, Martin R. Claborn and Kimberly Claborn Miller.**

On April 11, 2014 Petitioner met with an estate planning attorney and was advised that the language of the order provided that **Cynthia D. Knott** was the sole remainderman beneficiary of the trust due to the omission of the language that the term "child" or "children" also refer to the Decedent's stepchildren. Petitioner took prompt action to cause this petition to be filed.

The error in the language of the judgment is readily apparent from the judgment roll consisting of the original will, the petition for probate, the order for probate and the judgment of final distribution which clearly does not conform to Decedent's wishes as expressed in the Will.

Alternatively, the Judgment of Final Distribution to Testamentary Trust is a void judgment and is subject to modification because the omission in the language of the judgment resulted in the court exceeding its authority, however unintentionally by rendering a judgment for distribution which was contrary to the intent of the Decedent as expressed in his Will.

Granting modification of the judgment nunc pro tunc is appropriate because Petitioner is still alive and the interests of any remainderman of the testamentary trust have not yet ripened into current interests.

Wherefore Petitioner prays for an order that the following language erroneously and mistakenly omitted for the judgment shall be added to the end of the judgment to conform to the Decedent's intent as expressed in his will: "The terms 'Decedent's child', 'Decedent's children', 'child of Decedent' and 'children of Decedent' as used in this Judgment of Final Distribution and Final Distribution to Testamentary Trust and in the testamentary trust set forth herein shall include Decedent's child Cynthia D. Knott, and step-children Martin R. Claborn and Kimberly Claborn Miller."

Points and Authorities attached to the Petition.

Response of Cynthia D. Watson to Petition for Order to Correct Clerical Error filed on 6/19/14.

Respondent alleges the omission was not clerical and the Judgment is not void. The petition is not timely because the time to challenge a Judgment on direct appeal has passed. Respondent further alleges that the Petitioner does not have standing to prosecute this petition. The petition and each and every claim therein fails to state facts sufficient to constitute a cause of action or basis for relief. Petitioner is estopped by her own conduct from obtaining any relief under her Petition. Petitioner's acts, conduct and/or omissions were the proximate cause of Petitioner's alleged damages.

Respondent prays as follows:

1. Petitioner take nothing by way of the Petition;
2. That the Petition be dismissed with prejudice;
3. For costs of suit.

Please see additional page

Points and Authorities in Support of Opposition to Petition to Correct Clerical Error filed on 6/19/14.

Petitioner's Reply to Verified Response of Respondent Cynthia D. Watson filed on 6/20/14. Petitioner alleges Respondent has failed to file her opposition on a timely basis and the result is that she has waived any opportunity to oppose the Motion and has consented to the entry of the order requested in the motion. This is a motion to correct a clerical error in a judgment. The requirement for filing of papers opposing a motion are set forth in CCP 1005(b) which provides that all papers opposing a motion shall be filed with the court and a copy served on each party at least nine court days before the hearing. Respondent did not comply with this requirement. In fact, Respondent did not come close to complying with this requirement. It appears that Respondent's opposition was filed either Wednesday, June 18, 2014 or on Thursday June 19, 2014. Petitioner's attorney received a faxed copy of the response at 4:48 p.m. on Wednesday. In order for this response to be timely, it should have been filed at least by Tuesday, June 10, 2014, more than a week before it was filed. Opposing Counsel's late filing is prejudicial to Petitioner and other interested parties.

Petitioner further alleges that the cases cited by Respondent do not apply to an action to correct a clerical error pursuant to CCP §473(d). Respondent has misstated and misapplied the law. The case cited makes a clear distinction between the correction of a clerical error and the correction of a judicial error. The Court may correct by a nunc pro tunc order an inadvertent or clerical error. The distinction between a clerical error and a judicial error does not depend so much on the person making as it does on whether it was the deliberate result of judicial reasoning and determination. A clerical error in the judgment includes inadvertent errors made by the court which cannot be reasonably attributed to the exercise of judicial consideration or discretion. Clerical error is to be distinguished from judicial error which cannot be corrected by amendment.

Petitioner should be permitted to modify the order for Final Distribution to conform to the will because the order incorporates the terms of the will by reference.

Respondent's argument that the existence of Article Thirteenth B in the Will indicates that there is a different interpretation of the Decedent's intent is without merit.

In summary, it is clear from the evidence presented as well as the record in the court file that there was an error in the order which has an inadvertent mistake, not the result of judicial deliberation, but the result of an oversight. The law gives the court broad power to determine that an error was clerical rather than judicial, and therefore, this court has the opportunity to correct its error.

Petitioner has estimated that the property in trust has a value of approximately \$1,750,000.00. Obviously Decedent's daughter, Respondent, would like to receive those assets. However, her father clearly and expressed his intent that these assets be divided three ways among his daughter and step-children. Under the current order the assets will go entirely to Decedent's daughter completely in contravention of Decedent's intent as expressed in his Will. The Court has an opportunity and authority to prevent a great injustice.

Please see additional page

Petitioner's Supplemental Reply to Verified Response filed on 7/2/14 states the court may upon motion of the injured party correct clerical errors to cause a decree of distribution to conform to decedent's Will. Petitioner should be permitted to modify the Order for Final Distribution to conform to the Will because the order incorporates the terms of the Will by reference. (Cases cited in support of argument)

Respondent's Additional Memorandum of Points and Authorities in Opposition to Petition filed on 7/1/14. Respondent states in this case, the decedent's Will provides in Article SECOND "that the terms, "my child" and "my children" as used in this Will shall include my child and stepchildren . . ." and also includes Article THIRTEENTH B., which provides in part as follows: ""Issue" of a person means of such person's lawful descendants of every degree . . . However, nothing in this Will shall include foster children or step-children in the term "issue" "lineal descendant," or "ancestor.""

Neither Article SECOND nor Article THIRTEENTH B., are included in the Petition for Distribution or in the Judgment of Final Distribution. The two articles conflict and provide different definitions for "child" and "children."

Petitioner contends that the provisions of Article SECOND of the Will are incorporated into the Judgment. This is not the case. As Petitioner points out, the trust is to be held, administered and distributed only "in accordance with the provisions of Paragraphs SIXTH, SEVENTH, and EIGHTH of Decedent's Will." There is no mention in the Judgment of Article SECOND. (Cases cited in support of argument)

Petitioner's Reply to Respondent's Additional Memorandum of Points and Authorities in Opposition filed on 7/8/14 states Article Second and Article Thirteenth B do not conflict. Article Second and Article Thirteenth B are mutually exclusive. Article Second defines the terms "my child" and "my children". The parenthesis surrounding the terms in each of these sections make it clear that the respective definitions apply when the specific terms are used. Both terms "children" and "issue" are used in different places in the will. The terms are neither conflated nor used interchangeably as Respondent suggests. When the terms "child" or "children" are used, step-children are included in the definition. When the term "issue" is used, step-children are excluded. There is no judicial interpretation necessary here, nor is there any evidence whatsoever that the court was required to make, nor made, judicial interpretations regarding this issue. There is no evidence that there was a judicial interpretation made, but there is ample evidence presented that there was a clerical error.

In addition, the judgment makes sufficient reference to the will to incorporate the terms of the will into the order. The language in the order states, in "accordance with the provisions of Paragraphs SIXTH, SEVENTH, and EIGHTH of Decedent's Will. . ." In the will, the terms of Article Second are incorporated into the rest of the will, including, Articles, Sixth, Seventh and Eighth. The reference to Decedent's Will in the order would have no meaning if Articles Sixth, Seventh and Eighth are to be construed differently in the Judgment than in the will.

DOD: 7/13/1991	MARY S. WATSON is petitioner, filed a motion to correct a clerical error in a judgment. See page 1A.	NEEDS/PROBLEMS/COMMENTS:
Cont. from	Minute order from 7/10/14 set this status conference.	
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Status Report of Petitioner filed on 8/7/14 states the Decedent's 7/11/1991 Will was prepared by Michele A. Engnath, who was an attorney at Baker, Manock and Jensen at the time. Attorney Michele A. Engnath is deceased. Jeff Jaech of Baker, Manock and Jensen advised Mr. Buettner that the file relating to Dennis I. Watson was destroyed.

Mr. Buettner states he located one of the witnesses to the will, Darlene Trower. Ms. Trower was a paralegal at Baker Manock and Jensen at the time.

Declaration of Darlene Trower states she was present when Mr. Watson executed his will. Michele Engnath explained the terms of the will to him. Dennis was lucid and completely capable of understanding the discussion. He indicated that he wanted his estate to go in equal shares to his child, Cynthia D. Knott and his two step-children, Martin R. Claborn and Kimberly D. Garrett after both he and Mary died.

Darlene was a long-time friend of Dennis Watson. Dennis had discussed his wishes several times over a substantial period of time and he indicated on all of those occasions that he wanted to leave his estate in equal shares to his child, Cynthia D. Knott and his two step-children, Martin R. Claborn and Kimberly D. Garrett was consistent with what Dennis had expressed on those prior occasions. Dennis had a close relationship with his step-children. - Declaration of Darlene Trower attached.

Please see additional page

Reviewed by: KT
Reviewed on: 8/7/14
Updates:
Recommendation:
File 1B – Watson

Status Report of Petitioner filed on 8/7/14 continued: Dennis Watson had previously executed a will on October 22, 1983 which left his estate to Mary Watson, and if she predeceased him, then in equal shares to Cynthia D. Knott, Martin R. Claborn and Kimberly D. Garrett, so Dennis' intent that he provide for his stepchildren equally with his child was consistent and unwavering over a period of at least eight years before he executed the 1991 Will. – Copy of 1983 will attached.

The testamentary trust established in Dennis' will contains an undivided ½ community property interest in certain ranch properties owned by Dennis and Mary. Dennis had no assets at the time he married Mary. The ranch properties were purchased entirely with funds which Mary brought into the marriage.

Dennis Watson was well aware that Mary was free to leave her ½ of the community property assets to anyone she wished. In fact, she told Mary that she could leave her ½ to whoever she wished. - Declaration of Mary Watson attached.

Dennis knew that when he was dying that his daughter would receive an inheritance from Dennis' parents when they died. Cynthia has in fact received such an inheritance from Dennis' parents.

When Dennis Watson died, Judith A. Ward, a paralegal assisted Mary Watson in probating Dennis Watson's estate. Ms. Ward neglected to include in the petition for final distribution and the proposed judgment the recitation in that will that the references to "child" and "children" include Decedent's stepchildren. - Declaration of Judith A. Ward attached.

**Probate Status Hearing Re: Failure to File the Inventory and Appraisal and for
Failure to File a First Account or Petition for Final Distribution**

DOD: 4-15-05	ANGELITA GARCIA , Daughter, was appointed as Executor with Full IAEA without bond and Letters issued on 2-22-06.	NEEDS/PROBLEMS/COMMENTS: Continued from 2-28-14, 5-16-14, 6-9-14
		1. A Petition to Determine Succession was filed in separate case 14CEPR00329 to pass the real property that was alleged to be an asset of the estate to Ms. Garcia outside of this probate estate.
Cont. from 022814, 051614, 060914	The Executor's Second Amended Petition estimated the estate to contain real property valued at \$155,000; however, no Inventory and Appraisal was ever filed.	
Aff.Sub.Wit.		The petition was granted 6-9-14, and pursuant to the Order Determining Succession, the property passed to Ms. Garcia.
Verified		
Inventory	Dept. of Health Care Services filed two creditor's claims on 12-30-05 totaling \$297,816.16 as well as Requests for Special Notice.	On 6-25-14, a Final I&A was filed in this estate reflecting that property. However, the property has now been determined to have passed to Ms. Garcia pursuant to the Order Determining Succession. That means that the property is <u>no longer</u> an asset of this estate, and the I&A filed 6-25-14 is incorrect.
PTC		
Not.Cred.		Regardless, this estate, having been opened in 2005, still needs to be closed.
Notice of Hrg		
Aff.Mail	Notice of Pendency of Action filed 10-16-08 indicate an action entitled "Sandra Shewry, Director of the Department of Health Care Services vs. Joel M. Murillo, as Personal Representative of the Estate of Elvira Rodriguez, Decedent; and Does 1 through 20, inclusive." The nature of the action is a Complaint to Enforce and Collect Money Due on a Medi-Cal Creditor's Claim for \$41,055.02 pursuant to W&I Code §14009.5.	Need petition to terminate administration and close this estate.
Aff.Pub.		
Sp.Ntc.		Reviewed by: skc
Pers.Serv.		
Conf. Screen		Reviewed on: 8-6-14
Letters		
Duties/Supp		Updates:
Objections		
Video Receipt	Thereafter, nothing further was filed.	Recommendation:
CI Report		
9202	The Court set this status hearing on 11-22-13 and sent notice of hearing to Attorney Joel Murillo on 11-22-13.	File 2 – Rodriguez
Order		
Aff. Posting		
Status Rpt	The matter was continued to 5-16-14 and then to 6-9-14 and then to 8-11-14 for the filing of the accounting.	
UCCJEA		
Citation		
FTB Notice		

Third Account Current and Report of Conservator and Petition for Settlement and Allowance of Conservator's and Attorney's Compensation

Age: 62	BARBARA ROMERO (CASTRO) , Co-Conservator of the Person and Conservator of the Estate, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. The Petitioner does not address whether the current bond posted is sufficient. Need information regarding the current bond amount and whether it is sufficient. Note: Bond was initially set at \$250,000.00, it is unclear whether that amount is still in place. 2. Need proof of service of Notice of Hearing with a copy of the Third Account on the conservatee Jesse Felix Castro. 3. Total disbursements relating to the remodeling of conservatee's real property during the account period were \$69,434.14, not including the requested reimbursement amount of \$4,123.36. The Court may require more information as to the benefit of spending this amount of conservatorship estate assets on the property. Will the money be recouped by renting the residence? 4. The Petitioner states that the conservator has entered into a property management agreement with Fox Property Management for managing the rental of the real property asset of the estate. The Petition alleges that the management company keeps the rental proceeds and pays the costs of maintaining the property from those proceeds and takes fees for managing the property. Continued on Page 2
	Account period: 01/01/12 – 01/31/14	
	Accounting - \$497,531.82	
Cont. from	Beginning POH - \$215,350.24	
Aff.Sub.Wit.	Ending POH - \$371,066.37 (\$156,066.37 is cash)	
✓ Verified	Conservator - waived	
Inventory	Reimbursements - \$4,123.36 (to Rodrigo Ayala, Conservators husband, for reimbursement for maintenance and repair of the Conservatee's real property necessary after tenant moved out – itemized by date)	
PTC	Attorney - \$1,250.00 (ok per Local Rule)	
Not.Cred.	Attorney costs - \$96.00 (certified copies, recording fees)	
✓ Notice of Hrg	Petitioner states that conservatee's home is an older home in the downtown Fresno area that has become run down in recent years. The home was repeatedly broken into and damaged. After the departure of the tenant in January 2012, the home was repaired, refurbished and remodeled inside and out for future rental purposes, taking about a year. Most of the homes in the neighborhood underwent the same process as part of the City of Fresno revitalization redevelopment project. Although it was a lot of work and expense, the Petitioner felt it was worth it because the property has always been very important to the conservatee. Upon completion of the renovations, Petitioner entered into a residential management agreement with Fox Property Management to manage the rental property beginning in March 2013.	
✓ Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
✓ 2620(c)		
✓ Order	Petitioner states that Conservatee's medical care is completely paid for by his workers' compensation benefits and are paid directly to the Care Meridian Nursing Home. Petitioner does not receive a copy of the monthly billing statements, therefore, Petitioner is unable to file the billing statements, however, a printout of a computer ledger report with payment history is attached to the Petition. Continued on Page 2	
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Reviewed by: JF

Reviewed on: 08/06/14

Updates:

Recommendation:

File 3 – Castro

Petitioner prays for an Order:

1. Approving and settling the third account;
2. Approving the actions of the conservator;
3. Authorizing the attorney's fees and costs;
4. Authorizing payment to Rodrigo Ayala in the amount of \$4,123.36 as reimbursement for maintenance and repair of the Conservatee's real property.

Court Investigator Samantha Henson filed a report on 08/06/14. The report states that the conservatorship appears to continue to be warranted and is in the best interest of the conservatee.

NEEDS/PROBLEMS/COMMENTS (Continued):

4 (cont.) The Petition states that the estate received no income from the real property during the accounting period and does not allege how the property will begin to generate income in future accounting periods. The court needs more information as to the benefit of this rental agreement to the estate. The account reflects that approximately \$75,000.00 was spent to renovate a real property asset of the estate that has not generated any income or benefit to the estate during this accounting period and it is not alleged in the petition as to how it will benefit the estate in the future.

4 Jennifer Roberts (Special Needs Trust)

Atty Horton, Lisa M. (for Christina Roberts, Trustee)

Atty Teixeira, J. Stanley

Case No. 12CEPR00751

First Account and Report of Trustee of Jennifer Roberts Special Needs Trust; Petition to Settle Account; and for Allowance of Fees to Attorney for Trustee and Guardian and Reimbursement of Costs Advanced

			CHRISTINA ROBERTS , Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
			Account period: 11-5-12 through 11-5-13	1. Petitioner was originally represented by Attorney Joanne Sanoian, who is now deceased. This petition was filed by Ms. Sanoian's office, signed by Attorney Lisa Horton, on 5-27-14.
			Accounting: \$235,856.10	
			Beginning POH: \$235,837.56	Substitution filed 6-2-14 indicates that Ms. Horton, now of Walters & Moshrefi, represents Ms. Roberts. The Substitution was signed by Ms. Roberts, Attorney John Garland as Executor of Ms. Sanoian's estate, and by Ms. Horton.
			Ending POH: \$233,535.25	
Cont. from 071414			(cash held in blocked account)	Substitution filed 7-1-14 by Attorney Teixeira, signed by only Ms. Roberts and Mr. Teixeira, indicates that because Ms. Sanoian is deceased, no other signature is needed.
	Aff.Sub.Wit.			
✓	Verified		Trustee: Waives compensation	However, it appears consent by Ms. Horton is necessary for Mr. Teixeira to represent Ms. Roberts as attorney of record in this matter. CCP §284.
	Inventory			
	PTC		Attorney (Sanoian) for charges related to Guardianship of the Estate (12CEPR00499):	1. <i>The proposed order was recently submitted by the Law Offices of Joanne Sanoian, which prepared this petition, but which office no longer represents the petitioner. Need clarification per #1 above.</i>
	Not.Cred.		\$2,500.00 (Declaration indicates charges of \$4,388.00; however, \$2,500.00 is requested.)	
✓	Notice of Hrg		Attorney (Sanoian) for services relating to this Special Needs Trust: \$9,541.25	Note: If granted, the Court will set a status hearing for the filing of the next account for either:
✓	Aff.Mail	w	(See declaration)	
	Aff.Pub.		Costs (Sanoian): \$551.00 (Courtcall appearance and filing fee)	<ul style="list-style-type: none"> Monday, March 30, 2015, if a one-year account is required, or Monday, March 28, 2016, if a two-year account is required.
	Sp.Ntc.			
	Pers.Serv.		Note: Declaration also itemizes \$976.00 paid from the attorney trust account for filing fees, certified copies, ex parte petitions, leaving a balance of \$24.00.	If the proper items are filed, the status hearing may be taken off calendar.
	Conf. Screen			
	Letters		Petitioner prays for an order:	Reviewed by: skc
	Duties/Supp		1. Approving, allowing, and settling the account as filed;	Reviewed on: 8-6-14
	Objections		2. Authorizing \$2,500.00 to Attorney Sanoian for legal services rendered in connection with the guardianship estate;	Updates: 8-8-14
	Video Receipt		3. Authorizing \$9,541.25 to Attorney Sanoian for legal services rendered in connection with this Special Needs Trust;	Recommendation:
	CI Report		4. Authorizing reimbursement of costs of \$551.00 to Attorney Sanoian; and	File 4 – Roberts
✓	2620(c)		5. For such other relief as the Court deems proper.	
	Order	X		
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Atty Amador, Catherine A., of Pascuzzi, Moore & Stoker (for Petitioners Manuel Chavez and Susan Chavez-Leon, Co-Conservators)

Report of Sale and Petition for Order Confirming Sale of Real Property

Age: 41 years	MANUEL CHAVEZ , father, and SUSAN CHAVEZ-LEON , sister, Co-Conservators of the Person and Estate appointed on 10/18/2012, are Petitioners.	NEEDS/PROBLEMS/COMMENTS:
		Note: <i>Third Amended First Account of the Conservatorship was filed on 7/30/2014 and is set for hearing on <u>9/9/2014</u>.</i>
Cont. from	Sale Price - \$245,000.00	
<input type="checkbox"/> Aff.Sub.Wit.	Overbid - \$257,750.00	
<input checked="" type="checkbox"/> Verified		1. <i>Notice to Sale of Real Property filed 7/18/2014 appears to be intended to satisfy the notice requirements of Probate Code § 10308(c). However, said document does not contain any proof of service showing persons to whom notice was served nor dates of service, and is lacking the information contained on the mandatory-use Judicial Council Notice of Hearing [GC-020]. Need proof of mailed service 15 days prior to hearing of the Notice of Hearing to the following persons pursuant to Probate Code §§ 10308(c) and 1460:</i>
<input checked="" type="checkbox"/> Reappraisal	Reappraisal - \$255,000.00 (completed 6/5/2014; filed 7/8/2014)	
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.	Property - 1634 N. Dublin Lane, Clovis, CA 93619	
<input type="checkbox"/> Notice of Hrg	Publication - Business Journal	
<input type="checkbox"/> Aff.Mail		
<input checked="" type="checkbox"/> Aff.Pub.	Buyers - Rodney John Evangelho and Linda Maria Evangelho, as Trustees (Need complete vesting which includes Trust name;)	
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters	Broker - \$ (6% total, payable to Guarantee Real Estate agent Marilyn Schutt @ 3%, London Properties agent Angela Diaz @ 3%)	<ul style="list-style-type: none"> • Cynthia Chavez, Conservatee; • Susan Chavez-Leon, Co-Conservator (who did not sign/verify Petition with Manuel Chavez); • Rodney John Evangelho; purchaser; • Linda Maria Evangelho, purchaser; • Alice G. Chavez, mother; • Mary A. Alvarado, sister; • Kathy Conner, sister; • Paul Chavez, brother; • Mariano Chavez, brother.
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report	Bond - \$201,850.00 (current)	
<input type="checkbox"/> 9202	\$122,790.00 (Additional needed)	
<input type="checkbox"/> Order		
<input checked="" type="checkbox"/> Aff. Posting	Additional bond is needed to bring total bond to \$324,640.00 .	Reviewed by: LEG
<input type="checkbox"/> Status Rpt		Reviewed on: 8/6/14
<input type="checkbox"/> UCCJEA		Updates:
<input type="checkbox"/> Citation		Recommendation:
<input type="checkbox"/> FTB Notice		File 5 – Chavez

NEEDS/PROBLEMS/COMMENTS, continued:

2. Item 1(b) of the *Petition* requests Court confirmation of sale of the Conservatee's interest in other property sold as a unit as described in *Attachment 2(c)*; however, no *Attachment 2(c)* is provided describing other property sold as a unit to be confirmed by the Court.
3. Item 4(a) of the *Petition* states the manner of vesting title to the purchasers is as Trustees, but does not provide the name of the Trust, which should be included in the order for completeness and accuracy.
4. Need mandatory-use Judicial Council form *Order Confirming Sale of Real Property [DE-265]*, containing the legal description of the real property to be sold (and "other property" if consistent with the request in the *Petition*), and the complete manner of vesting title to the purchasers.

Note: Base bond amount for calculation of additional is taken at the value stated in the *Petition* and has not been reviewed due to the need for information as to net sale proceeds.

Note: If *Petition* is granted, Court will set a status hearing as follows:

- **Tuesday, September 9, 2014 at 9:00 a.m. in Dept. 303** for filing proof of additional bond of **\$122,790.00** (totaling **\$324,640.00**). (*Date coincides with hearing date set for accounting.*)

Pursuant Local Rule 7.5, if the document noted above is filed 10 days prior to the date listed, the hearing will be taken off calendar and no appearance will be required.

Page 2

Petitioner states this motion is made on the grounds that the petitioner presented uncontroverted evidence that the executor financially abused the decedent and breached his duties as spouse and administrator.

Petitioner also moves the Court for an order correcting the clerical error of the minute order to accurately reflect the announced decision of the court on 6-16-14 (CCP §473). The new order should include the following:

1. The issues and causes of action for elder abuse, undue influence, intentional interference with right of inheritance, decedent's title to the Underground Gardens, and related relief and damages are to be tried by the civil court.
2. The issues and of the disqualification of Rosario Forestiere as heir are preserved for the hearing on 9-18-14.

The motion to vacate the existing order and motion to correct clerical errors are based on the petitions, records, exhibits and papers in this action; the evidence in the exhibits; the attached points and authorities, and the declaration of Petitioner.

Executor's Opposition states the issues raised are not properly before the court. Allegations of fraud and elder abuse must be addressed under proper authority in the civil court in a separate proceeding. The Court pointed out this deficiency in the Examiner Notes, yet Andre did not take proper action. Andre requested that a new executor be appointed, but did not file mandatory judicial council form Petition for Probate or Letters of Administration, did not serve the petition, nor did he publish. Examiner Notes informed him of this deficiency, yet again the proper action was not taken.

The issues properly before the court were 1) whether the will should be admitted to probate, and 2) whether Executor should be appointed executor, and 3) whether there was a violation of the court's order.

The will was properly admitted to probate, and Andre presented no contradicting evidence. Andre's only "evidence" for removal is a transcript that is nothing more than hearsay statements of a bitter discussion between siblings. If anything, the communication was that the decedent feared Andre. As Andre has not provided evidence to disqualify the Executor, the Executor was properly appointed. Lastly, there was no violation of the Court's order. Andre alleges that the Executor violated court orders by removing documents from the decedent's residence; however, no such restrictions were in place to violate, and Andre provided no evidence to refute this.

Andre has not established what facts were "uncontroverted," that they were "uncontroverted," or that any of his substantial rights will be materially affected. Therefore, the Court should not vacate the order.

Executor states Petitioner fails to provide legal authority to support vacating the court's order. See discussion.

Executor states Petitioner's motion to correct clerical error is unnecessary and must be denied. The Court's order is not a clerical error, and no clerical error exists. See discussion.

Petitioner filed a Reply on 8-4-14. See Reply for details.

	NEEDS/PROBLEMS/COMMENTS:
	<u>Continued from 7-21-14</u>
	Minute Order 7-15-14 (Settlement Conference): Matter not settled.
	Per Judge Oliver (verbally), the matters scheduled for 7-16-14 were taken off calendar.
	Also per Judge Oliver (verbally), this Petition for Order Compelling Petitioner's Release from Locked Facility will be heard at a future date, however, the hearing date of 7-21-14 will remain on calendar as a Status Hearing.
	<u>Note:</u> On 7-16-14, the Court signed Order Regarding Mental Examination ex parte, which was prepared by Attorney Curtis Rindlisbacher and approved as to form and content by Attorney Hornburg.
	<u>Note:</u> Per Minute Order 7-21-14, Mr. Rindlisbacher reports that an agreement has been reached. However, nothing further has been filed.
	<u>For reference, the following petitions remain outstanding with no future dates set:</u>
	<ul style="list-style-type: none"> Petition to Determine Whether Advanced Health Care Directive has Terminated; Petition to Determine Whether Durable Power of Attorney has Terminated (filed 2-25-14 by Melinda Cordell) Ex Parte Petition Regarding Mental Examination (filed 6-3-14 by Melinda Cordell). Petition for Order Compelling Petitioner's Release from Locked Facility (filed 6-27-14 by Melinda Cordell)
	Reviewed by: skc
	Reviewed on: 8-6-14
	Updates:
	Recommendation:
	File 7A – Cordell

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Letters
Duties/Supp
Objections
Video Receipt
CI Report
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Order
Aff. Posting
Status Rpt
UCCJEA
Citation
FTB Notice

7A

7B	Melinda Cordell (Durable Power Attorney)	Case No. 14CEPR00159
Atty	Rindlisbacher, Curtis D. (for Petitioner Melinda Cordell)	
Atty	Gaebe, C. Matthew (of Visalia, for Objector Phillip Rolfe – Attorney-in-Fact for Petitioner)	
Atty	Soares, Joseph F. (for Joseph Lewis Horswill – Respondent)	
	Status Hearing	

	At the hearing on 7-21-14, the Court set this separate status hearing. See Examiner Notes at Page A for details, case history.	NEEDS/PROBLEMS/COMMENTS:

7B

Atty Shahbazian, Steven L., sole practitioner (for Petitioner Mary Jean Mazzie, Successor Trustee)

Petition for Order Confirming Trust Assets

Frank DOD: 2/25/2004	MARY JEAN MAZZEI , daughter and Successor Trustee, is Petitioner.		NEEDS/PROBLEMS/COMMENTS:
Antoinette DOD: 10/6/2013			
			1. Paragraph 12 of the <i>Petition</i> states that the names and relationships of the Trust beneficiaries to Decedent Antoinette Jerkovich are set forth; however, the <i>Petition</i> does not state whether there are other persons entitled to notice pursuant to Probate Code §§ 851 and 17203(b). <i>Proof of Service by Mail</i> of the <i>Notice of Hearing</i> filed 7/2/1014 includes the following names of persons who received notice of the instant <i>Petition</i> , but whose names and relationships to Decedent are not but should be included in the <i>Petition</i> : <ul style="list-style-type: none"> • KIMBERLY GAMBERO; • STEFANIE McGUINESS. <p>~Please see additional page~</p>
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	W/		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Petitioner states:

- Frank Jerkovich and Antoinette Jerkovich executed the **FRANK JERKOVICH AND ANTOINETTE JERKOVICH REVOCABLE TRUST of 1995** on 7/20/1995, wherein they were both Trustors and initial Trustees;
- On 3/15/2000, Frank Jerkovich and Antoinette Jerkovich amended the Trust in its entirety by *Amendment to Trust Agreement*; on 7/5/2001, Settlor amended the Trust by the *Second Amendment to Trust Agreement* (copies attached as Exhibits A and B);
- Per the terms of the First Amendment to the Trust, upon Frank's death, the surviving spouse, as sole Trustee, was to divide the assets of the Trust into sub-trusts, **TRUST A** and **TRUST B**;
- The surviving spouse and sole Trustee retained the right to amend or revoke the terms of **TRUST A** only, and to appoint the distribution of assets of **TRUST A** by the Will or other testamentary instrument of the surviving spouse; **TRUST B** was irrevocable;
- As sole Trustee, Antoinette divided the assets of the Trust into the two separate sub-trusts, and designated **TRUST A** assets and **TRUST B** assets;
- Following Antoinette's death on 10/6/2013, Petitioner succeeded as sole Successor Trustee of the Trust, including **TRUST A** and **TRUST B**;
- Prior to her death, Antoinette amended on 6/1/2009 **TRUST A** of the Trust by her *Third Amendment to Trust Agreement* (copy attached as Exhibit C);

~Please see additional page~

Reviewed by: LEG

Reviewed on: 8/6/14

Updates:

Recommendation:

File 8 – Jerkovich

Petitioner states, continued:

- In addition to the execution of the Trust and amendments thereto, on 3/15/2000, Antoinette executed a "pour-over" Will (*filed in Court 12/13/2013; copy attached as Exhibit D*);
- Under the terms of her Will, the residue of Antoinette's estate was assigned and given to the trustee then in office of the **FRANK JERKOVICH AND ANTOINETTE JERKOVICH REVOCABLE TRUST of 1995**;
- In addition, Antoinette's Will directed that if she is the surviving spouse any distributions shall be made to **TRUST A**; therefore, it is the specific intention of Antoinette Jerkovich, as the surviving Trustor, that all assets over which she had the right of distribution at her death are assigned to TRUST A;
- Under the terms of the Trust and Amendment, all assets related to the Trust were assigned to **TRUST A** and **TRUST B**, which was the intention of the trustors; the Amendment to the Trust set forth the intention of the trustors that their assets be transferred to the Trust and distributed pursuant to the terms of the Trust and all amendments thereto;
- During the administration of Antoinette as Successor Trustee, being from the death of Frank on 2/25/2004 until her death on 10/6/2013, Antoinette administered the Trust and **TRUST A** and **TRUST B** thereof pursuant to the terms of the Trust and Amendments;
- During the course of investment of trust assets, and at her death, Antoinette held **4** Bank of America accounts in her name as an individual [*totaling \$169,703.17*]; also an unsecured promissory note of **\$85,000.00** was payable to Antoinette individually from her granddaughter and granddaughter's husband, **LESLIE ROBERTS** and **BRUCE ROBERTS** made on 1/14/2010, with a balance due at date of death of **\$67,079.48**;
- Pursuant to the Trust and Amendments and the Will of Antoinette, it was the intent that all assets of the trustors, and of the surviving trustor, be administered and distributed pursuant to the terms of the Trust, including **TRUST A** for the surviving trustor, being Antoinette Jerkovich;
- In the various investments and transfers of funds by Antoinette, she inadvertently failed to hold the assets described as "Trustee" of **TRUST A**, as was her stated intent;
- Under these circumstances, and based on the facts and legal authorities cited, Petitioner requests that the Court confirm that the assets identified [*above*] are assets of **TRUST A** of the Trust and are subject to the management, control, and distribution of Petitioner as Successor Trustee;
- Under Probate Code § 850(a)(3)(B) a trustee can claim that real or personal property held by another should be transferred to the trustee of the trust upon the trustee's petition;
- Probate Code § 15000(c) [*Note: This code subsection does not exist*] authorizes the transfer of property by the owner thereof, by will or other instrument, to a trustee;
- Finally, under the rule of *Estate of Heggstad* (1993) [*cite omitted*] and Probate Code § 17200, this court has jurisdiction to determine whether the assets described above are property subject to the terms of the Trust;
- Each residual beneficiary named above, as an "interested person" under Probate Code § 48(a)(1), has signed a consent to this *Petition* and the relief requested (*consents attached as Exhibit E*).

~Please see additional page~

Petitioner prays for an Order of this Court that:

1. The **FRANK JERKOVICH AND ANTOINETTE JERKOVICH REVOCABLE TRUST of 1995**, as amended, is a valid and enforceable Trust Agreement and that Petitioner is the duly appointed and acting Successor Trustee of the Trust, and each separate Trust, **TRUST A** and **TRUST B**;
2. The assets set forth in *Paragraph 9 of the Petition* are assets of **TRUST A** of the **FRANK JERKOVICH AND ANTOINETTE JERKOVICH REVOCABLE TRUST of 1995** dated 7/20/1995;
3. The assets set forth in *Paragraph 9 of the Petition* are subject to the management, control and distribution by Petitioner, as Successor Trustee of the Trust.

NEEDS/PROBLEMS/COMMENTS, continued:

2. *Petition* states that in the various investments and transfers of funds by Antoinette Jerkovich, she inadvertently failed to hold the assets described as "Trustee" of **TRUST A**, as was her stated intent. It appears the *Petition* does not clearly demonstrate the intent of Antoinette Jerkovich to hold the subject assets as Trustee of **TRUST A**, based upon the absence of the identity of the subject property having been specified in the Trust or in an attached schedule, typically referred to as "Schedule A." Petitioner fails to provide the Court with such asset schedule which is the crucial basis upon which the Court may determine that it was the intent of Antoinette Jerkovich to hold the subject bank accounts and promissory notes in **TRUST A**. Based on the authority in the *Estate of Heggstad*, the Settlor's written declaration of trust is sufficient to create a trust in the property described in the schedules of trust assets and the law does not require separate deeds or conveyances transferring the property to the Trust. The fatal defect in the instant *Petition* is the lack of the schedule of assets describing the property; the existence of the Settlor's pour-over Will used as support for Petitioner's request is insufficient to demonstrate Decedent's intent that these specific assets be held in the Trust. Further, the Will of Antoinette Jerkovich is not before the Court for determination of whether the subject assets were part of Decedent Antoinette Jerkovich's estate or were her Trust property, nor is her Will before the Court for using as the mechanism by which to transfer these assets as estate residue to be distributed to the Trust.

DOD: 11-5-13		FELIX C. MAGALLANES , Spouse, is	NEEDS/PROBLEMS/COMMENTS: 1. Petition is blank at #5(a)(7)and (8). Was the decedent survived by issue of a predeceased child? 2. Need Notice of Petition to Administer Estate. 3. Need proof of service of Notice of Petition to Administer Estate at least 15 days prior to the hearing on heirs Margie Martinez and Monica Ibarra. 4. Need publication. 5. Need Duties and Liabilities of Personal Representative and Confidential Supplement. 6. Need Order. 7. Need Letters. Note: If the petition is granted status hearings will be set as follows: <ul style="list-style-type: none"> • Monday 1-12-15 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal and • Monday, 1-11-16 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
		Petitioner and requests appointment as Administrator with Full IAEA without bond.	
		All heirs waive bond.	
	Aff.Sub.Wit.		
✓	Verified	Full IAEA – Need publication	
	Inventory	Decedent died intestate	
	PTC		
	Not.Cred.	Residence: Clovis	
	Notice of Hrg	X Publication – Need publication	
	Aff.Mail	X Estimated value of estate:	
	Aff.Pub.	X Real property: \$650,000.00	
	Sp.Ntc.		
	Pers.Serv.	Probate Referee: Steven Diebert	
	Conf. Screen		
	Letters	X	
	Duties/Supp	X	
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	X	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc Reviewed on: 8-6-14 Updates: Recommendation: File 9 – Magallanes

Probate Status Hearing Re: Filing Account

DOD: 11/06/06		NAGLAA K. ALAMELDIN, sister, was appointed Administrator with full IAEA and bond of \$190,000.00 on 01/02/07 .	NEEDS/PROBLEMS/COMMENTS:
		NAGLAA K. ALAMELDIN filed a Status Report of Administration of Estate and Petition to Approve First Account on 09/21/10.	1. Need Final Account and Petition for Final Distribution or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
Cont. from 100412, 113012, 020113, 040513, 060713, 080913, 090613, 110113, 010914, 041014			
	Aff.Sub.Wit.	The Petition to Approve First Account was continued several times (11 hearings total) and the Court denied the Petition with leave to Amend on 06/04/12.	
	Verified		
	Inventory	Minute Order from hearing on 8/6/12 set this matter for status regarding filing the account.	
	PTC		
	Not.Cred.	Please see additional pages.	
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
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	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc
			Reviewed on: 8-6-14
			Updates:
			Recommendation:
			File 10 - Alameldin

Page 2

Status Report filed 6-6-13 by Attorney Rindlisbacher (not verified by Administrator) states funds totaling \$69,425.63 should be received in the next 30 days from CA State Controller unclaimed property. We are working with Bank of American to obtain a satisfaction of creditor's claim that has been paid. **A guardianship of the estate will need to be established for minor beneficiaries before distribution can be made.** They reside with their mother, who would have the right to be appointed; however, we would recommend that if this probate estate were distributed to her as guardian of the estate that the funds be placed in blocked accounts, as the estate has a judgment against her in the amount of \$13,869.21 entered 9-20-07. Interest is accruing at the legal rate and the amount she now owes is \$21,796.01. **Administration should continue until a guardianship of the estate has been established for each minor child.**

Minute Order 6-7-13: Counsel advises the Court that they will not be filing a guardianship as that responsibility falls on the mother. Counsel further advises that they are hoping to receive the proceeds within 30 days. Continued to 8-9-13.

Status Report filed 8-8-13 by Attorney Curtis Rindlisbacher (not verified by fiduciary) states:

- Proofs of Claim have been submitted to the California State Controller regarding the unclaimed property totaling \$69,425.63. Per correspondence, processing may take 180 days.
- The mother of the two minor beneficiaries will be establishing guardianship estates for them; however, the estate has not yet been given notice of these proceedings.
- The mother has a judgment against her in the amount of \$13,869.21 entered 9-20-07, with interest accrued at this time of \$7,926.80, for a total of \$21,796.01. Therefore, if the mother is appointed guardian of the minors' estates, it is recommended that the accounts be blocked.
- Administration should continue until the guardianship estates are established and the property has been received from the state. A petition for final distribution can be filed then.

Minute Order 8-9-13: The Court will also review the status of Guardianship. Continued to 9-6-13.

Verified Status Report filed 9-5-13 states:

- No further communication has been received from the State of California Controller's Office regarding the claims. They are still waiting for the state to process the claims.
- The Administrator has not received written notice of the guardianship proceedings; however, attached is a printout from San Joaquin County Superior Court showing that the guardianship petitions have been filed for both minors. It is unclear from the printout if the hearing date is set for 10-1-13 or 10-15-13.
- Administration should continue until the guardianship estates have been established and the property has been received from the State of California.
- After guardianship estates have been established, they can petition for preliminary distribution, and a petition for final distribution can be filed when proceeds have been received from the State of California.

Page 3

Verified Status Report filed 10-31-13 states it appears from court records in San Joaquin County Superior Court that the guardianship petition was dismissed, but they don't have any information as to why.

Administration should continue until distribution can be received from the State of California and guardianship estates have been established. Note that one of the minors will turn 18 in Feb 2014, but the other not until 2018.

Status Report filed 3-25-14 states one of the minors turned 18 in February 2014, the other will turn 18 in 2018. When the monies are received from the State Controller's office, the Administrator will be in a position to file the final accounting and distribute to the child who is 18. Blocked accounts are recommended for the minor heir. The estate has a judgment against the mother entered 9-20-07 with interest accruing, now totaling \$22,890.41. Administration should continue until a guardianship of the estate has been established for the minor and a petition for final distribution can be presented when property has been received from the State of California.

(1) First and Final Account and (2) Petition for Final Distribution

Age:		NEEDS/PROBLEMS/COMMENTS:
DOD:		<u>CONTINUED TO 8-26-14</u> Per Petitioner's request
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
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Aff.Pub.		
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Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed on: 8-6-14
	Updates:	
	Recommendation:	
	File 12 – Gallegos	

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Aysia, 2		TEMPORARY EXPIRES 08/11/14		NEEDS/PROBLEMS/COMMENTS:	
Jerome, 1		GINA WALKER, paternal grandmother, is Petitioner.		<u>CONTINUED FROM 06/30/14</u> Minute Order from 06/30/14 states: The Court is informed that mother is in custody. Matter is continue to 08/11/14. The temporary is extended to 08/11/14. 1. Need Notice of Hearing. 2. Need proof of service at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: a. Cidney Taylor (mother) – personal service required, unless diligence is found, Declaration of Due Diligence states that her current whereabouts are unknown b. Paternal grandfather – service by mail sufficient c. Maternal grandparents – service by mail sufficient	
		Father: JEROME DIXON – deceased			
		Mother: CIDNEY TAYLOR – Declaration of Due Diligence filed on 4/30/14			
Cont. from 063014		Paternal grandfather: NOT LISTED			
	Aff.Sub.Wit.		Maternal grandparents: NOT LISTED		
✓	Verified		Petitioner states the mom abuses drugs and alcohol and is homeless. Father is deceased. Petitioner states the children have been in her care since 11/2013. Court Investigator Jennifer Young filed a report on 06/20/14.		
	Inventory				
	PTC				
	Not.Cred.				
	Notice of Hrg	x			
	Aff.Mail	x			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	x			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 08/05/14	
				Updates:	
				Recommendation:	
				File 13 - Dixon	

14A Mario Dean Vicks III (GUARD/P)

Case No. 14CEPR00414

Atty Hollins, Gilbert (Pro Per – Petitioner – Maternal Grandfather)
 Atty Hollins, Denise (Pro Per – Petitioner – Maternal Grandmother)
 Atty Cleveland, Kimya (Paternal Grandmother – Objector)
 Atty Vicks, Mario Dean Jr. (Father – Objector)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 3		<u>TEMPORARY EXPIRES 08/11/2014</u>		NEEDS/PROBLEMS/COMMENTS:	
		DENISE HOLLINS and GILBERT HOLLINS , maternal grandparents, are Petitioners.		Minute Order of 07/07/2014: Also present in Court is Kimya Cleveland. Mother and Father object to the petition. Parties are ordered to attend mediation on 07/08/2014 at 10:00a.m. Mr. Fischer is directed to file a report with the Court regarding the status of mediation. The Court Investigator is ordered to conduct a further investigation as deemed necessary.	
		Father: MARIO DEAN VICKS, JR.; personally served 5/21/2014, Objection filed 05/15/2014			
Cont. from 070714		Mother: DENISHA HOLLINS; personally served 5/21/2014.			
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail	w/			
	Aff.Pub.				
	Sp.Ntc.				
✓	Pers.Serv.	w/			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
Paternal grandfather: Deceased Paternal grandmother: Kimya Cleveland; personally served 5/21/2014, Objection filed 05/15/2014 Petitioners state Mario has lived with them since his birth, and they have strongly bonded with him. Petitioners state they left the child with his mother on 4/28/2014 because she wanted to keep him that day, and when his grandfather (Petitioner Gilbert Hollins) went to check on the both of them, his mother was not there, the door was wide open with two men inside with Mario, and three men were outside the door, so Petitioner brought him home and said some things happened to Mario. Petitioners called CPS and the Fresno Police Department, and for Mario's safety he was placed in foster care overnight because his mother would not cooperate with the officers. Petitioners state the next day, CPS had a meeting with the mother, then CPS spoke with Petitioners, and told Petitioners they had to give Mario to his mother because no one has custody of Mario. Petitioners state Mario knows that he is not home, as the Petitioners' home is his home. Petitioners state Mario's father was in his life for about 2 months after he was born, then the mother stopped talking to his father in about 2010, and Mario has only seen his father [on specified dates] in the past few years. <u>Please see additional page</u>				Reviewed by: LV Reviewed on: 07/01/2014 Updates: Recommendation: File 14A - Vicks	

14A

Objection to Guardianship filed by MARIO DEAN VICKS, JR. on 5/15/2014 states:

- The Petitioners state that he hasn't been in Mario's life when Mario was a baby;
- That is not true; he was there before he was born and after, doing the best that a young father could do;
- He admits that he had a drawback of immaturity when Mario was about 6 months and he wasn't acting responsible for his son, but after he did snap back into reality he started to make efforts to be in his son's life, and so far he has been to every one of Mario's birthdays and he had him for almost every holiday since Mario was a baby;
- Mario has also been spending time with him on the weekends, and with his other siblings as well;
- He is the best choice of who Mario should be with, and he believes every child should have their parents in their lives because he knows exactly what it's like not to have both;
- When he was around the same age as Mario, he was in foster care so when that incident happened to his son and he found out that Mario was taken from his mother by CPS and put in a foster home, it took him back and for him all he can remember is wanting his parents, so he knows what Mario must have been going through;
- He knows he would be best with him and his fiancé, who he has been with for 4 years and who has been very supportive in making sure his kids were in his life and him in theirs;
- When Mario is with he and his fiancé, Mario is in a stable home and is safe with his 2 step sisters and blood-related baby sister, with his own room and every else a kid should have;
- With his family's support, he has become a very well-respected father to his kids, including his 2 wonderful step-girls he has raised since they were 2 years and 8 months;
- Mainly because of the girls, he has become a better father towards his own over the years;
- Mario knows him and loves him, and he knows Mario does love and adore his grandparents, but he thinks the responsibility of raising Mario goes to him as Mario's parent unless evidence proves that both of them are unable to do so;
- He is very able to care for Mario and he and his fiancé do everything as a family, even when they want to go out by themselves they always bring their kids with them;
- He and his fiancé live in a housing program allowing them to have an affordable 3 bedroom apartment, and the in the program they both attend couple's counseling, parenting classes, and group classes; the program advisors also check on them twice a month with in-home visits and the apartment is a gated community with security cameras making it a safe environment for them;
- He and his fiancé buy Mario clothes, and made sure he had asthma medicine and got to the doctor when neither his grandparents or mother could;
- He hopes that his statements will show that he is qualified to be a good father and that he is the one that Mario should be with; the thanks the Court for its consideration of him
- Petitioner attached photos and 4 letters of character reference for the Court's consideration, including from Turning Point of Central California.

Objection to Guardianship filed by KIMYA CLEVELAND, paternal grandmother, on 5/15/2014 states Mario should be raised by his father rather than his grandparents; his father is a responsible parent and there is no reason why Mario should not be with his father if his mother is unable to care for him.

Petitioners filed on 5/19/2014 a Declaration describing the events that took place with Mario after the Petitioners finally obtained custody of him on 5/9/2014 with their temporary Letters [granted ex parte], including Mario having severe throat pain and Petitioner taking him to the hospital on 5/10/2014 and his diagnosis was strep throat and Scarlet Fever; Mario telling Petitioners that his mother was dead and demonstrating as if someone was swinging and fighting to show them how she was killed; telling Petitioners that his mother was "a boy" and that the woman [Dominique Jetton] who his mother lives with told him not to eat any food at Petitioner's home; telling Petitioners that his mother made a dog lick his private parts and that his mother hurt him and his not his friend; and that his mother left him with the same man called "Uncle Pops" who had molested him and put a knife up to Mario and told him to "stay with your mama" and Mario was very frightened. Petitioners would like the Court to know these things that happened to Mario after CPS placed him back with his mother.

Court Investigator Charlotte Bien's report filed 06/18/2014.

Court Investigator Charlotte Bien's report filed 07/24/2014.

14B Mario Dean Vicks III (GUARD/P)
Atty Hollins, Gilbert (Pro Per – Petitioner – Maternal Grandfather)
Atty Hollins, Denise (Pro Per – Petitioner – Maternal Grandmother)
Atty Cleveland, Kimya (Paternal Grandmother – Objector)
Atty Vicks, Mario Dean Jr. (Father – Objector)

Case No. 14CEPR00414

Status Hearing Re: Mediation

Age: 3	DENISE HOLLINS and GILBERT HOLLINS , maternal grandparents, were appointed Temporary Guardians of the person on 05/08/2014. Minute Order of 07/07/2014 set this matter for the Status Hearing on Mediation Minute Order of 07/07/2014 states: Also present in Court is Kimya Cleveland. Mother and Father object to the petition. Parties are ordered to attend mediation on 07/08/2014 at 10:00a.m. Mr. Fischer is directed to file a report with the Court regarding the status of mediation. The Court Investigator is ordered to conduct a further investigation as deemed necessary. Declaration filed by Denise Hollins, Co-Temporary Guardian, on 07/08/2014 attaches a Mediation Agreement which states: <ul style="list-style-type: none"> • Visitation with Mother, Denisha Hollins, Tuesday 10:00a.m. – Thursday at 7:00pm, transportation will be provided by Denise and Gilbert Hollins, Co-Guardians. • Visitation with Father, Mario Dean Vicks, Jr., Friday at 10:00a.m. – Saturday at 7:00p.m. and Sunday after the child returns from church until 7:00p.m. • Mediation continued to 08/04/2014 at 10:30. 	NEEDS/PROBLEMS/COMMENTS: As of 08/06/2014 Mr. Fischer has not filed a report with the Court regarding status of Mediation.
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FTB Notice		
		Reviewed by: LV
		Reviewed on: 08/06/2014
		Updates:
		Recommendation:
		File 14B – Vicks

14B

Age: 75		<p align="center"><u>NO TEMPORARY REQUESTED</u></p> <p>ROBERT VEGA, brother, and JULI VEGA, sister-in-law, are petitioners and request appointment as Conservator of the Person with medical consent powers.</p> <p>Declaration of Taruna Nijhawan, M.D., filed 05/13/2014 supports request for medical consent.</p> <p>Voting Rights Affected</p> <p>Petitioners state: proposed Conservatee is 75 years old, has very limited ability to care for herself, she is unable to manage everyday things such as cooking, cleaning, and managing her personal hygiene. She cannot drive and is unable to navigate a city bus line or call a cab and then pay the drive for the fare properly. She is unable to grocery shop for herself or make appointments for medical, dental or eye exams and cannot keep a calendar of important dates. Proposed conservatee has lived her entire life with her mother until the mother's passing in 1996 which she then moved in with her a sister-in-law until April of 2010. She has been in the care of the petitioners since 2010. She cannot live alone and needs constant supervision.</p> <p>Court Investigator Samantha Henson's report filed 06/25/2014.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator Advised Rights on 06/18/2014.</p> <p>Voting Rights Affected Need Minute Order.</p>	
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		Reviewed by: LV Reviewed on: 08/06/2014 Updates: Recommendation: File 15 - Vega		

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 4 months		TEMPORARY EXPIRES 08/11/2014		NEEDS/PROBLEMS/COMMENTS:	
		CAROLINA PARKER, paternal aunt, is petitioner.		<p>1. Page #5 of the Guardianship Petition – Child Information Attachment (GC 210(CA)) indicates that the child has no known Indian ancestry however the Court Investigator's report states petitioner indicated that the child has Apache and Cherokee ancestry therefore, a <i>Notice of Child Custody Proceeding for Indian Child</i> (Form ICWA-030), must be served together with copies of petition and all attachments, including this form, on the child's parent; any Indian custodian; any Indian tribe that may have a connection to the child; the Bureau of Indian Affairs (BIA), and possibly the U.S. Secretary of the Interior, by certified or registered U.S. Mail, return receipt requested. (Please see Probate Code 1460.2, and CA Rules of Court 7.1015)</p> <p>2. Per item 1 above, Petitioners will need to return the completed copy of the <i>Notice of Child Custody Proceeding for Indian Child</i> to the probate clerk. The probate clerk will then mail the notice to the required agencies as required.</p>	
		Father: JOHNNY W. BOLECH , consents and waives notice, personally served on 06/06/2014			
		Mother: TERESA G. FARKAS , consents and waives notice, personally served on 06/06/2014			
		Paternal Grandfather: Johnny Bolech, Deceased			
		Paternal Grandmother: Isabel Flores, served by mail on 07/17/2014			
		Maternal Grandfather: Gary Farkas, served by mail on 07/17/2014			
		Maternal Grandmother: Annette Farkas, served by mail on 07/17/2014			
		Sibling: Misty Hisks, Dusty Hisks, Johnnie Bolech, Anthony Auburn, Traver Bolech, Jayson Bolech, Salina Bolech, each served by mail on 07/17/2014			
		Petitioner states: the parents are homeless and not able to properly care for the child. Father has a long history of substance abuse and incarceration. Each of the parents' consent to the guardianship however now they have made demands to have the minor returned to their custody. Petitioner fears the parents are using the child to obtain emergency housing and cash aide, as they are homeless and have no jobs or source of income.			
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				Reviewed by: LV	
				Reviewed on: 08/06/2014	
				Updates:	
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				File 16 – Bolech	

Court Investigator Julie Negrete's report filed 07/31/2014.

Needs/Problems/Comments continued:

- 3. After mailing, per item 2 above, need proof of service of notice, including copies of the notices sent and all return receipts and responses received, pursuant to Probate Code 1460.2(d).**

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

			TEMP EXPIRSE 8-11-14 JESS PEREZ , non-relative, is petitioner. Father: UNKNOWN Mother: ELISHA RESENDEZ Paternal grandparents: Unknown Maternal grandfather: Frank Gable Maternal grandmother: Lucy Latrell – consents and waives notice. Siblings: Maria Perez, Robert Perez, Edward Zamora, Marissa Munoz, and Sandra Salinas Petitioner states mom is currently in jail and will be there for a minimum of six months. The biological father is unknown to petitioner. The child is currently in petitioner's care and there is no one else who is able to care for him. Petitioner states he is the father of two of the minor's siblings. He helped raise the minor and is the only father he knows. DSS Social Worker Irma Ramirez filed a report on 8-4-14.	NEEDS/PROBLEMS/COMMENTS: 1. Need proof of personal service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: - Sergio Munoz (Minor) - Elisha Resendez (Mother) - Unknown father 2. Need proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: - Frank Gable (Maternal Grandfather) - Unknown paternal grandparents - All siblings of the minor age 12 and older. 3. Notice of Hearing was served on Lesha Scarttella; however, it is unclear who this person is.																																																																									
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<div> <div>TEMP EXPIRES 8-11-14</div> <div> JORGE A. ARGUELLO RUIZ, and ROSEMILIA SUAREZ DE ARGUELLO, paternal grandparents of Alyssa, are petitioners. </div> <div> Father (of Alyssa): ALEX A. ARGUELLO - Consents and waives notice </div> <div> Father (of Jesenia): NOT LISTED - Declaration of Due Diligence filed 06/23/2014 </div> <div> Father (of Kristine): NOT LISTED - Declaration of Due Diligence filed 06/23/2014 </div> <div> Mother: ANGIE ANGUIANO - Personally served on 06/15/2014 - Objection filed 06/24/2014 </div> <div> Paternal Grandparents (of Jesenia): Not Listed Paternal Grandparents (of Kristine): Not Listed </div> <div> Maternal Grandfather: Deceased Maternal Grandmother: Deceased </div> <div> Petitioner states: The parents do not care about the security and stability of the children. The mother asked for help because she does not have a house and a job, and one year later she still does not have a house and a job. </div> <div> Objection to Guardianship filed by Angie Angiano, mother on 06/24/2014 states she is capable of caring for her own children and there is no reason for her to file for guardianship. They made an agreement that the kids would stay for vacation and extended time if needed. Now that school is out, she will be taking them back home. Mrs. Arguello knew she was going through a rough time, and they had agreed that as soon as school was out, she could pick up her children. Ms. Angiano states she is a loving mother, she works, and she cares for her girls. She can provide. The extended vacation is over. She trusted Rosemilia would help and not take her children per verbal agreement. Ms. Angiano is grateful to Mrs. Arguello for the time and money and caring she has provided. </div> <div> Court Investigator Samantha Henson filed a report on 7-31-14. </div> </div>			<div> NEEDS/PROBLEMS/COMMENTS: </div> <div> <u>Note:</u> The mother resides in Homestead, FL. According to the UCCJEA, the children resided with her until June 2013, and have resided with Petitioners for over a year. </div> <div> 1. If diligence is not found, need notice to the fathers and paternal grandparents of Jesenia and Kristine or further diligence. </div> <div> <u>Note:</u> According to the Court Investigator's report, the father of Jesenia and Kristine is Felix Batista. </div> <div> Reviewed by: skc </div> <div> Reviewed on: 8-7-14 </div> <div> Updates: </div> <div> Recommendation: </div> <div> File 18 – Batista & Anguiano </div>
<div> <div> <div>Aff.Sub.Wit.</div> <div>✓ Verified</div> <div>Inventory</div> <div>PTC</div> <div>Not.Cred.</div> <div>✓ Notice of Hrg</div> <div>Aff.Mail</div> <div>Aff.Pub.</div> <div>Sp.Ntc.</div> <div>✓ Pers.Serv.</div> <div>✓ Conf. Screen</div> <div>✓ Letters</div> <div>✓ Duties/Supp</div> <div>✓ Objections</div> <div>Video Receipt</div> <div>✓ CI Report</div> <div>✓ Clearances</div> <div>Order</div> <div>Aff. Posting</div> <div>Status Rpt</div> <div>✓ UCCJEA</div> <div>Citation</div> <div>FTB Notice</div> </div> <div>X</div> </div>			

Pro Per Keithley, Patricia; Guthrie, Bill;; Guthrie, Randy, Earline Beem; Mobly, Linda;
Branson, Debbie (Pro Per Petitioners)

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 5/9/2014		PATRICIA KEITHLEY, BILL GUTHRIE, RANDY GUTHRIE, EARLENE BEEM, LINDA MOBLY, and DEBBIE BRANSON , children, are Petitioners. 40 days since DOD. No other proceedings. I & A - \$101,310.00 Will dated 6/3/2011 devises: <ul style="list-style-type: none"> Jewelry, jewelry boxes, and all Decedent's shoes and clothing to EARLENE BEEM, LINDA MOBLY, PATRICIA KEITHLEY, and DEBBIE BRANSON; Cedar chests and stall (?) to RANDY GUTHRIE; Horse painting to BILL GUTHRIE. 	NEEDS/PROBLEMS/COMMENTS: 1. Item 9 of <i>Petition</i> states decedent's spouse is deceased. Item 14 of <i>Petition</i> does not include the name and date of death of the deceased spouse, pursuant to Local Rule 7.1.1(D) which provides that if a beneficiary, heir, child, spouse or registered domestic partner in any action before the Probate Court is deceased, that person's date of death shall be included in the <i>Petition</i> . 2. Item 7 of the <i>Petition</i> is incomplete re commencement of proceedings for the administration of Decedent's estate in another jurisdiction. ~Please see additional page~
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Petitioners request Court determination that Decedent's **100%** interest in real property located at 28608 Auberry Road, Clovis, and **100%** interest in specified items of personal property as to specified Petitioners, passes to the Petitioners pursuant to Decedent's Will.

Reviewed by: LEG
Reviewed on: 8/6/14
Updates:
Recommendation:
File 19 – Guthrie

NEEDS/PROBLEMS/COMMENTS, continued:

3. *Final Inventory and Appraisal* filed 7/24/2014 indicates on *Attachment 2*, Line 1: "Shoes and clothing (donated to Goodwill.)" However, the shoes and clothing were given a value of **\$200.00**, and the *Petition* requests and proposed order finds that the shoes and clothing be distributed and divided between Decedent's four daughters. Need clarification. (*Note Re Document Acceptability: Final Inventory and Appraisal filed 7/24/2014 is altered with correction fluid at Line 1, in the space for personal representative appraisal amount. This practice is currently under scrutiny and may be prohibited by local rule in the future. In the instant case, it appears the appraisal was made in full by the Probate Referee, and therefore, this issue is not raised as a defect to be cured.*)
4. Decedent's Will is not witnessed as required by Probate Code § 6110. Although the Will is technically not admitted to probate in this proceeding, when the Decedent leaves a Will, a Court order determining the right to succeed to the Decedent's property under the Will necessarily includes a determination as to the validity of the Will. Further, Decedent's Will does not devise or otherwise provide for disposition of Decedent's real property. Decedent's daughter **KATHY KINCADE** (DOD 11/18/1997) predeceased the Decedent and left issue, **RYAN KINCADE**, Decedent's grandson. *Petition* is unclear as to whether the real property is requested to pass pursuant to intestate succession. Need clarification.

			TEMP GRANTED EX PARTE EXPIRES 8-11-14	NEEDS/PROBLEMS/COMMENTS: 1. If diligence is not found, need five Court days' notice to parents per Probate Code §2250(e) or further diligence.
			GENERAL HEARING 10-2-14	
			MARGARET ANN JACKSON , Maternal Grandmother, is Petitioner.	
	Aff.Sub.Wit.		Father: ANGEL EDWARD HERNANDEZ - Declaration of Due Diligence filed 8-6-14	
✓	Verified		Mother: LARMESHA GOMEZ - Declaration of Due Diligence filed 8-6-14	
	Inventory		Paternal Grandparents: Unknown - Declaration of Due Diligence filed 8-6-14	
	PTC		Maternal Grandfather: Larry McCorvey	
	Not.Cred.		Petitioner states the father has custody of the children and on 3-4-13 he placed them in Petitioner's care with a notarized statement. Petitioner states the mother has been calling her numerous times asking for the children back upon her release. She was smuggling drugs across the border and is incarcerated in a federal prison. Petitioner does not know where she is, but suspects she is about to be released based on her calls. Every call is to tell her she wants her kids. However, she has no home and the children would be at risk in her care.	
	Notice of Hrg	X	When the father placed the children with Petitioner, he kissed them and left. He is out on the streets using. Per Declaration of Due Diligence, he approached Petitioner in the supermarket in 2013 and told her he was happy she was caring for the children.	
	Aff.Mail		Petitioner requests to be excused from giving notice to the parents.	
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Reviewed by: skc
Reviewed on: 8-7-14
Updates:
Recommendation:
File 20 – Hernandez

Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250)

			GENERAL HEARING 10-2-14	NEEDS/PROBLEMS/COMMENTS:
			JOANN SMITH , Maternal Grandmother, is Petitioner.	
			Father: MITCHELL H. BARBOUR	
			Mother: TAMI SUE THOMAS	
			Paternal Grandfather: Deceased	
			Paternal Grandmother: Deceased	
			Maternal Grandfather: Deceased	
			Siblings: Rex Barbour, Cory Vanhoven	
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<input type="checkbox"/>	Notice of Hrg	X	Petitioner states the mother has no home for the child, she lives and sleeps on the streets, is on drugs, and if the child has to go with the mother that is where she will be taken. It is very unsafe.	1. Need Notice of Hearing. 2. Need proof of personal service of Notice of Hearing with a copy of the temp petition at least five court days prior to the hearing per Probate Code §2250(e) <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: - Star Sueann Barbour (Minor) - Mitchell H. Barbour (Father) - Tami Sue Thomas (Mother)
<input type="checkbox"/>	Aff.Mail			
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<input type="checkbox"/>	Pers.Serv.	X	Petitioner has no idea where the father is. He left 10 years ago and does not pay support.	
<input checked="" type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters		According to the UCCJEA, the child has been with Petitioner since 2011.	
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				Reviewed by: skc
				Reviewed on: 8-7-14
				Updates:
				Recommendation:
				File 21 – Barbour

Atty LeVan, Nancy J., sole practitioner (for Jonathan Holcomb, Executor)

**Probate Status Hearing Re: Failure to File the Inventory and Appraisal and
Failure to File a First Account or Petition for Final Distribution**

DOD: 10/26/2007	JONATHAN HOLCOMB , son, was appointed Executor with Full IAEA authority without bond on 5/26/2009.		NEEDS/PROBLEMS/COMMENTS:
	Letters issued on 5/26/2009.		Continued from 3/11/2014.
Cont. from 011014, 031114	Pursuant to Probate Code § 8800(b) , Final Inventory and Appraisal was due 9/26/2009 .		Note for background: Minute Order dated 1/10/2014 states counsel informs the Court that they are proceeding with the recovery of assets turned over to the Controller.
Aff.Sub.Wit.		Final Inventory and Appraisal was filed on 3/25/2014 showing an estate value of \$23,738.31 .	
Verified		First account and/or petition for final distribution was due May 2010.	<ol style="list-style-type: none"> Need first account and/or petition for final distribution, or verified Status Report and proof of service of notice of the Status Hearing pursuant to Local Rule 7.5(B), including notice per Request for Special Notice filed by the Franchise Tax Board on 7/7/2009. <p>Note: Creditor's Claim was filed 7/7/2009 by the Franchise Tax Board in the amount of \$481.07.</p>
<input checked="" type="checkbox"/> Inventory		Notice of Status Hearing filed 11/15/2013 set this status hearing on 1/10/2014 for failure to file the inventory and appraisal and first account and petition for final distribution.	
Acct.	X	Previous Status Report filed 3/7/2014 states:	
Not.Cred.		<ul style="list-style-type: none"> An inventory and appraisal has been prepared and sent to Steven Diebert on 2/26/2014; It has not been returned as of this date [3/6/14]; It is anticipated that the value of the estate will be less than what is owed to the IRS and the Franchise Tax Board; Contact has been made to the Principal Financial Group to redeem the common shares in Decedent's name and place them in the estate; Attorney LeVan requests ~90 days to complete the redemption of shares held by the Principal Financial Group into the estate, payment of the Franchise Tax Board claim, and preparation of the Petition for final Distribution or Termination of the Estate due to lack of assets; Jonathan Holcomb has become very cooperative in providing the necessary documents to ascertain the assets in the estate and contacting the holders of the assets. 	
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Citation			
FTB Notice			

		<p>LEONEL RIOS, son is petitioner and filed a Petition for Letters of Administration requesting appointment as Administrator with bond set at \$122,000.00 on 09/16/2013.</p> <p>ANA RIOS SENN aka ANNA RIOS, daughter is petitioned and requested appointment as Administrator with Will Annexed and with bond set at \$92,000.00 on 10/23/2013.</p> <p>LEONEL RIOS, filed a Will Contest on 12/04/2013.</p> <p>Minute Order of 02/24/2014 Settlement Conference: Parties engage in settlement discussions with the Court. Petition for Special Administration for the limited purpose of determining status of property, loans and taxes to be filed by counsel.</p> <p>Ex Parte Petition and Order appointing the Public Administrator as Special Administrator was filed on 03/18/2014.</p> <p>Minute Order of 07/07/2014: The trial date of 07/15/2014 is vacated. Matter is set for Status Hearing on 08/11/2014. Counsel is directed to submit a joint status report one week before the hearing. The letters of special administration are extended to 08/11/2014.</p> <p>Status Conference and Supplemental Settlement Conference Statement filed by Attorney Stephanie Krause on 08/08/2014 states the Public Administrator has learned there have been no payments on the 2621 Aspen, Selma California property since 09/22/2011. The current amount still due on the house is \$79,800.00. The amount of \$9,555.25 is owed in property taxes. The decedent had no death benefits from his prior employment, he had a 403B Plan \$261 in the account. The decedent had a CALPERS account, but there are no benefits. Two checks were sent to the decedent AFTER his death AND THEY WERE CASHED. CALPERS is requesting reimbursement. The amount was approximately \$800. There is EECU Fresno account with \$5.00.</p> <p>As previously set forth in February Settlement Conference Statement, Decedent's Estate should be probated under the law of intestacy, with each child receiving a 1/3 interest in the decedent's estate.</p> <p style="text-align: center;"><u>Please see additional page</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Joint Status Report.</p>																																																				
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Settlement Conference Statement of Ana Rios Senn filed on 08/08/2014 states Attorneys for the parties had a conference following the hearing on Leo's Petition to discuss the issues. To date, no agreement has been reached. The question before the Court is whether hand-written Will of decedent is valid. Ana contends it is for the following reasons:

1. The will is in the handwriting of Decedent and was signed by Decedent.
2. The will speaks for itself in that Decedent named Ana as his sole beneficiary.
3. Decedent did have the capacity to execute a Will on 11/14/2012.
4. Decedent was not unduly influenced by Ana.
5. Decedent was not under duress when the will was created.

In conclusion the Will of the decedent is valid. It was written and signed by the decedent and in plain English says that Ana was his sole beneficiary. Decedent was not unduly influenced by Ana no was he under duress when he executed his Will.